186 Center Street Suite 290 Clinton, NJ 08809 (908) 735-9315 (908) 735-2132 FAX

September 15, 2011

VIA ELECTRONIC & US MAIL

Ms. Stephanie Vaughn
Ms. Alice Yeh
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

Re: Monthly Progress Report No. 52 – August 2011 Lower Passaic River Study Area (LPRSA) Remedial Investigation/ Feasibility Study (RI/FS) CERCLA Docket No. 02-2007-2009

Dear Ms. Vaughn and Ms. Yeh:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on the behalf of the RI/FS Agreement Settling Parties (Cooperative Parties Group or CPG) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 42 of said Settlement Agreement.

(a) Actions which have been taken to comply with this Settlement Agreement during the previous month.

Meetings/Conference Calls

- On August 3, EPA, CPG, and EPA and CPG contractors held a conference call to discuss planning and coordination for the field activities associated with the Small Volume Chemical Water Column Monitoring Program (SV CWCM) Event #1.
- On August 9, EPA, CPG, and EPA and CPG contractors held a conference call to discuss planning and coordination for the field activities associated with the River Mile (RM) 10.9 Characterization sampling.

Correspondence

 On August 2, EPA notified CPG that EPA accepts the CPG's letter dated July 25, 2011 as having invoked the dispute resolution process under the AOC with respect to EPA's July 11, 2011 letter disapproving the Risk Assessment and Risk Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 - August 2011 September 15, 2011 Page 2 of 7

> Characterization Plan (RARC) and EPA's "Technical Memorandum, Fish and Crab Consumption Rates for the LPRSA Human Health Risk Assessment," provided on July 25, 2011 (Technical Memorandum) and requested that the CPG provides its written statement of objections related to these matters.

- On August 2, EPA rejected as untimely CPG's July 26, 2011 invocation of dispute resolution with respect to EPA's directives related to the Low Resolution Coring (LRC) Report.
- · On August 3, CPG submitted a schedule of planned field activities related to the Small Volume Chemical Water Column Monitoring Program (SV CWCM) Event #1 to EPA.
- On August 3, EPA requested a list of retained samples from Field Sampling Plan Volume 2 (FSP2) 2009 field work that CPG proposed to discard.
- On August 4, CPG submitted to EPA the SV CWCM program Performance Evaluation (PE) sample results from the pre-event sample evaluation.
- On August 4. CPG submitted to EPA Field Modification (FM) 110727-C1 request for an alternative collection method of water for dissolved metals analysis for the SV CWCM program.
- On August 4, EPA requested and was sent the correct version of Appendix H of the Revised 2010 Avian Survey Report by the CPG.
- On August 4, CPG provided a summary of retained FSP2 tissue samples to EPA.
- On August 8, EPA approved the 2010 Avian Survey Report and requested that the final report be loaded on the EPA SharePoint site.
- On August 8, CPG notified the EPA that the 2010 Avian Survey Report had been uploaded to the EPA SharePoint site.
- On August 9, CPG submitted a response to EPA July 29 comments on the draft SV CWCM QAPP to EPA.
- On August 9, EPA provided comments on the RM 10.9 Characterization QAPP to CPG.
- On August 9, EPA approved the CWCM FM 110727-C1.
- On August 9, CPG uploaded the revised RARC to the EPA SharePoint Site.
- On August 9, CPG requested EPA not to distribute the revised RARC to EPA's oversight contractors and the Partner Agencies until the dispute resolution process has been completed.
- On August 10, CPG notified EPA that the RARC had been uploaded to the EPA SharePoint Site.
- On August 10, CPG submitted the revised Threshold Risk Value (TRV) deliverable to EPA.
- On August 10, CPG provided EPA Response to Comments (RTC) on the SV CWCM - Event #1 QAPP and uploaded the revised QAPP to EPA SharePoint site.

Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 – August 2011 September 15, 2011 Page 3 of 7

- On August 11, CPG provided a response to EPA's August 2 letter rejecting as untimely CPG's invocation of dispute resolution related to the LRC Report.
- On August 11, CPG submitted a revised RM 10.9 Characterization QAPP to EPA.
- On August 11, EPA asked CPG if sediment samples from the 2009 Benthic Survey were being retained.
- On August 12, EPA approved the SV CWCM Event #1 QAPP.
- On August 12, CPG submitted a statement of objections to EPA related to the EPA July 11 RARC comments and the July 25 Technical Memorandum.
- On August 14, CPG responded to EPA's August 11 inquiry regarding retained sediment samples from the 2009 Benthic Survey.
- On August 15, CPG submitted the Monthly Progress Report to EPA.
- On August 17, EPA approved the RM 10.9 Characterization QAPP.
- On August 17, CPG submitted the proposed RM 10.9 characterization field schedule to the EPA.
- On August 18, EPA advised the CPG that because the revised RARC was loaded onto EPA's SharePoint web site, it is accessible to EPA's oversight contractors and the Partner Agencies. However, the EPA indicated that they have directed the oversight contractors not to review the revised RARC at this time, because of the on-going dispute resolution process. The Partner Agencies may review it at their discretion.
- On August 23 and 24, CPG submitted FM 110822-1 to allow for the use of a power grab sampler to supplement the sampling program associated with the RM 10.9 Characterization field work.
- On August 24, CPG provided EPA a daily report of activities associated with the RM 10.9 Characterization field activities.
- On August 25, EPA approved Field Modification 110822-1.
- On August 25, EPA responded to CPG's August 12 statement of objections associated with the CPG's July 25, 2011 Notice of Dispute Resolution for the LPRSA Risk Assessments; EPA identified the July 25 Notice date as the start of a 31-day Negotiations Period established in the AOC, but advised that the Negotiations Period would be extended until September 26; EPA requested the CPG's detailed critique of the Technical Memorandum.
- On August 31, CPG submitted a Force Majeure (delay) notice to EPA pursuant to the AOC that the RM 10.9 Characterization field work was suspended due to flooding associated with Hurricane Irene and lack of access to the CPG Field Facility.
- On August 31, EPA indicated to CPG its intention to schedule a meeting to discuss the Risk Assessment issues identified in the CPG's July 25, 2011 Notice of Dispute Resolution.

Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 – August 2011 September 15, 2011 Page 4 of 7

Work

- CPG conducted the SV CWCM Event #1.
- CPG initiated RM 10.9 Characterization field activities.
- CPG responded to EPA comments on the RM 10.9 Characterization QAPP and re-submitted a revised document to EPA.
- CPG continued drafting the Hydrodynamic Survey sections of the RM 10.9 Characterization QAPP.
- CPG initiated review of data received from the July 2011 Bathymetry Survey conducted at RM 10.9.
- CPG initiated chemical analysis of composited mussel tissue samples collected during the spring 2011 Caged Bivalve Study (CBS).
- CPG continued planning activities for the High Volume CWCM QAPP Addendum.
- CPG continued drafting a Supplemental Sediment Sampling Plan (SSP) QAPP.
- CPG completed revisions to the RARC and associated TRV document and resubmitted them to EPA.
- CPG continued drafting of the summer/fall 2009 Fish/Decapods Tissue Data Report.
- CPG continued drafting of the fall 2009 Benthic Sediment and 2010 Co-located Sediment Chemistry Data Report.
- CPG continued drafting of the fall 2009 Benthic Bioaccumulation Tissue Data Report.
- CPG continued drafting the fall 2009 Benthic Survey toxicity data report.
- CPG continued drafting the winter/spring 2011 Avian Survey Report.
- CPG Modeling Team continued analysis of the Physical Water Column Monitoring (PWCM) data to support Sediment Transport Model development and calibration.
- CPG Modeling Team continued work on the HQI ECOM-SEDZLJS Sediment Transport Model code including calibration for low-flow conditions utilizing CPG input files.
- CPG Modeling team continued work on the RCATOX Chemical Fate and Transport Model Code.
- CPG continued review of sediment characteristics and potential target remedy locations in support of initial Feasibility Study (FS) evaluations.
- CPG continued development of a FS cost estimating framework.



Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 – August 2011 September 15, 2011 Page 5 of 7

(b) Results of Sampling and Tests

 Raw data from the July 2011 Bathymetry Survey conducted at RM 10.9 was received during the period and will be submitted separately to EPA.

(c) Work planned for the next two months with schedules relating to the overall project schedule for RI/FS completion

- CPG will complete drafting the fall 2009 Benthic Sediment and 2010 Co-located Sediment Chemistry Data Report.
- CPG will complete drafting of the fall 2009 Benthic Survey toxicity data report.
- CPG will complete drafting the 2009 summer and fall Fish/Decapod Tissue Data Report.
- CPG will complete drafting the fall 2009 Benthic Bioaccumulation Tissue Data Report.
- CPG will complete responding to EPA comments on the spring 2010 Benthic Community Survey field report.
- CPG will continue drafting the 2010 Small Foraging Fish Tissue Chemistry Data Report.
- CPG will continue drafting the 2011 Avian Survey Report.
- CPG will continue to revise the Risk Assessment planning documents (Background/Reference Site, Ecological Life History Profiles, and Data Usability) in response to EPA comments.
- CPG will continue chemical analysis of CBS tissue composite samples.
- CPG will initiate analysis of water column samples collected during the SV CWCM Event #1.
- CPG will initiate validation of the analytical data from the SV CWCM Event #1.
- CPG will continue planning activities for the High Volume CWCM QAPP Addendum.
- CPG Modeling Team will continue work with the HQI ECOM-SEDZLJS code, inputs, and low to medium flow calibration and continue work with the RCATOX code and inputs.
- CPG will participate in LPR/Newark Bay Modeling Program progress calls and follow-up modeling collaboration meetings with EPA and EPA consultants.
- CPG will continue to develop the SSP QAPP.
- CPG will continue to conduct the RM 10.9 Characterization field work.
- CPG will continue review of the RM 10.9 Bathymetry Survey data and initiate drafting the report.

Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 – August 2011 September 15, 2011 Page 6 of 7

- CPG will continue planning activities to conduct the RM 10.9 Hydrodynamic Study.
- CPG will continue initial FS evaluation of targeted remedy locations and development of cost estimating tools.

(d) <u>Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays.</u>

- Based upon discussions with EPA, the CPG understands that the calibration of the HQI sediment transport model was completed by the EPA Modeling Team during the fourth quarter of CY 2010 and that changes were and continue to be made to the HQI SEDZLJS code and inputs used by EPA in its calibration. It is also the CPG's understanding that EPA is continuing work to improve their calibration. As such, the CPG is continuing to work on both its high flow calibration and its long-term daily calibration. The EPA and CPG collaboration meetings were conducted in April and May and July; these meetings are providing an opportunity for both modeling teams to understand difference between each team's approaches. Delays associated with both the sediment transport modeling and chemical fate transport modeling schedules are extending the completion of the LPRSA RI/FS.
- The CPG understands that the EPA has approved Tierra's CSO/SWO Workplan in May 2011. It is CPG's understanding that the execution of the AOC between EPA and Tierra or other signatories has not been completed. It is also the CPG's understanding that the Method Detection Studies and other work must be completed prior to the start of the Phase 1 work. The extent of the RI/FS schedule impacts is dependent on the completion of these items.
- EPA provided comments on July 11, 2011 which disapproved the revised risk assessment planning documents and required submission within 30 days. Additionally, EPA provided a technical memo on July 25, 2011 on fish and crab consumption rates for the LPRSA Human Health Risk Assessment. The CPG filed a notice of dispute resolution in accordance with Section XV of the AOC on July 25, 2011 in response to EPA's July 11, 2011 directive letter and July 25, 2011 technical memorandum.
- The CPG submitted a Force Majeure notice to EPA on August 31, 2011 that the RM 10.9 Characterization field work had been suspended due to flooding associated with Hurricane Irene. The duration of the delay in field work will be

Ms. S. Vaughn and Ms. A. Yeh LPRSA RI/FS - Progress Report No. 52 – August 2011 September 15, 2011 Page 7 of 7

determined by the flooding conditions and damage to and re-installation of the CPG floating dock supporting RM 10.9 survey vessels.

If you have any questions, please contact me or Rob Law at (908) 735-9315.

Very truly yours,

de maximis, inc.

Willard F. Potter V Project Coordinator

cc: Pat Hick, EPA Office of Regional Counsel
William Hyatt, CPG Coordinating Counsel
Lisa Baron, USACE
Tim Kubiak, USFWS
Reyhan Mehran, NOAA
Janine MacGregor, NJDEP

Elkins Green, NJDOT Laura Kelmar, AECOM